

**REMARKS/ARGUMENTS**

**Status of the Claims**

Upon entry of the present amendment, claims 1-34 and 36-39 are pending. Claim 9 is amended and claims 35, 40-50 are canceled without disclaimer or prejudice to renewal. Claims 9-11, 15-16, 18 and 20-38 are presently being examined.

Claim 9 is amended to set forth (i) contacting a compound with a SAK polypeptide or a nucleic acid that encodes a SAK polypeptide, (ii) that the polypeptide is encoded by a nucleic acid that encodes a SAK polypeptide having at least 95% identity to SEQ ID NO:2, and (iii) that the polypeptide has serine/threonine kinase activity. Support is found, for example, on page 5, lines 3-6 and in Figures 12-13; on page 7, lines 27-30; and on page 8, lines 1-2 and in Figures 17-19. In accordance with the suggestion of the Examiner, Claim 9 is also amended to set forth the purpose stated in the preamble as an affirmative step.

**Rejection under 35 U.S.C. § 112, second paragraph**

The Examiner rejected claims 9-11, 15, 16, 18, and 20-38 under 35 U.S.C. § 112, second paragraph because claim 9 set forth hybridization under “stringent conditions.” This rejection is rendered moot by amending claim 9 to set forth that the polypeptide is encoded by a nucleic acid that encodes a SAK polypeptide having at least 95% identity to SEQ ID NO:2. Accordingly, the Examiner is respectfully requested to withdraw this rejection.

**Rejection under 35 U.S.C. § 112, first paragraph, written description requirement**

The Examiner rejected claims 9-11, 15, 26, 18, 20-32 and 34-38 under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement because independent claim 9 did not define a function associated with the claimed genus. In response, Applicants do not agree with the present rejection. However, in the interest of furthering prosecution, Applicants have amended claim 9 to set forth that the SAK polypeptide has serine/threonine kinase activity. Because the claimed methods now define a SAK

polypeptide both in terms of structure and function, the Examiner is respectfully requested to withdraw this rejection.

**Rejection under 35 U.S.C. § 112, first paragraph, enablement requirement**

Claims 9 and 35 were rejected under 35 U.S.C. § 112, first paragraph as allegedly failing to comply with the enablement requirement because 35 depending from claim 9 could be interpreted to intend contacting an antisense molecule with a SAK polypeptide. Applicants do not agree with the Examiner because a nucleic acid can be a compound used in a method for identifying a compound that modulates cellular proliferation by contacting a SAK polypeptide. However, in the interest of furthering prosecution, Applicants have rendered this rejection moot by the cancellation of claim 35.

**Rejection under 35 U.S.C. § 102(b) over U.S. Patent No. 5,650,501**

The Examiner rejected claims 9-11, 15, 16, 18, 24-32, 34, and 37 as allegedly anticipated by U.S. Patent No. 5,650,501 (“the ‘501 patent”), because SEQ ID NO:2 of the present invention and the N-terminal half of SEQ ID NO:4 of the ‘501 patent share about 90% amino acid sequence identity. Applicants do not agree with the Examiner that the ‘501 patent anticipates the claimed methods. Applicants respectfully submit that they were the first to discover the function of a SAK polypeptide as it relates to cellular proliferation and therefore the claimed methods. However, in the interest of furthering prosecution, Applicants’ amendments to the claims render moot the present rejection. The ‘501 patent does not disclose or suggest a method for identifying a compound that modulates cellular proliferation by contacting a polypeptide having at least about 95% sequence identity to SEQ ID NO:2. Accordingly, the Examiner is respectfully requested to withdraw this rejection.

**Rejections under 35 U.S.C. §103(a)**

**U.S. Patent No. 5,650,501 in view of U.S. Patent No. 5,959,081**

The Examiner rejected claims 9, 15 and 20-23 as allegedly rendered obvious by the ‘501 patent in view of U.S. Patent No. 5,959,081 (“the ‘081 patent”). Applicants do not

agree with the Examiner that the combined disclosures of the '501 patent and the '081 patent render obvious the claimed methods. Applicants respectfully submit that they were the first to discover the function of a SAK polypeptide as it relates to cellular proliferation and therefore the claimed methods. However, in the interest of furthering prosecution, Applicants' amendments to the claims render moot the present rejection. The '501 patent and the '081 patent, alone or combined, do not disclose or suggest a method for identifying a compound that modulates cellular proliferation by contacting a polypeptide having at least about 95% sequence identity to SEQ ID NO:2. Accordingly, the Examiner is respectfully requested to withdraw this rejection.

U.S. Patent No. 5,650,501 in view of U.S. Patent No. 5,589,356

The Examiner rejected claims 9, 37 and 38 as allegedly rendered obvious by the '501 patent in view of U.S. Patent No. 5,589,356 ("the '356 patent"). Applicants do not agree with the Examiner that the combined disclosures of the '501 patent and the '356 patent render obvious the claimed methods. As asserted above, Applicants respectfully submit that they were the first to discover the function of a SAK polypeptide and therefore the claimed methods. However, in the interest of furthering prosecution, Applicants' amendments to the claims render moot the present rejection. The '501 patent and the '356 patent, alone or combined, do not disclose or suggest a method for identifying a compound that modulates cellular proliferation by contacting a polypeptide having at least about 95% sequence identity to SEQ ID NO:2. Accordingly, the Examiner is respectfully requested to withdraw this rejection.

Appl. No. 10/026,021  
Amdt. dated June 27, 2005  
Reply to Office Action of March 25, 2005

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**CONCLUSION**

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 925-472-5000.

Respectfully submitted,



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